

Article - Health - General

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§18–206.

(a) (1) In this section the following words have the meanings indicated.

(2) “Birth defect” means an abnormality of the structure or a function of the human body present at birth that may result in:

(i) A physical or mental disability; or

(ii) Death.

(3) “Health care provider” has the meaning stated in § 4–301 of this article.

(b) (1) A hospital shall make a report on each child who is live-born or stillborn in the hospital and has a birth defect. If a child is born outside the hospital, the person filling out the birth certificate shall make a report under this section.

(2) The Secretary shall appoint a committee of physicians, hospital representatives, epidemiologists, parents or guardians of children with birth defects, and officials from the Department to determine the information required under paragraph (1) of this subsection.

(3) The hospital shall submit the reports required under paragraph (1) of this subsection to the Department within 1 month after the date of release of the child’s mother from the hospital.

(c) A health care provider shall allow the Department to inspect and obtain the following medical information regarding a child with a birth defect:

(1) The medical records of:

(i) A child through the child’s second year of life; and

(ii) A child’s mother regarding the mother’s pregnancy with the child;

(2) Records of any laboratory tests relating to a child’s birth defect; and

(3) Any other medical information relating to a child's birth defect.

(d) (1) The hospital shall disclose the identity of the child with a birth defect to the Secretary so that the Secretary may:

(i) Use the information to protect the public health; or

(ii) Provide the parents or guardians of the child with information on birth defects and public and private services available in accordance with subsection (g)(1) and (4) of this section.

(2) If the Department shows a need for the individual identity of children without birth defects to conduct an investigation that aids in the protection of the public health, the hospital shall obtain the written consent of the parent or guardian of the child to disclose the child's name to the Secretary.

(3) The Secretary shall assure that the identity of a child under this section may not be released outside the Department without the written consent of the parent or guardian of the child.

(e) (1) The Department shall keep any medical information obtained under this section confidential.

(2) Medical information requested under this section shall be only as intrusive as necessary and used for the purpose of:

(i) Assuring the quality of the data reported;

(ii) Providing information or services to a child's family;

(iii) Conducting an epidemiological investigation related to a birth defect; or

(iv) Conducting the Department's research into the causes of birth defects.

(3) (i) The release of medical information obtained in accordance with this section to the Department is not a violation of the confidential relationship between a health care provider and a patient.

(ii) A health care provider who discloses medical records to the Department under this section:

1. Is not liable in any suit for civil damages for the disclosure of the medical records;

2. Is not subject to disciplinary action by any licensing or disciplining authority for disclosure of confidential information; and

3. May not be subject to any criminal penalties.

(4) The medical information obtained by the Department under this section is not subject to subpoena, discovery, or introduction into evidence in any administrative, civil, or criminal proceeding.

(f) While conducting research using human subjects under this section, the Department shall comply with the requirements for the protection of human subjects under:

(1) Title 13, Subtitle 20 of this article; and

(2) 42 U.S.C. § 289.

(g) (1) The Department shall assure that information is prepared and periodically updated on:

(i) Birth defects; and

(ii) Public and private services for children with birth defects.

(2) (i) The Secretary shall appoint a committee to determine the information required under paragraph (1) of this subsection.

(ii) The committee shall consist of:

1. Physicians;

2. Educators;

3. Social service specialists;

4. Representatives of the Department;

5. Representatives of the Department of Human Services;

6. Representatives of the State Department of Education; and

7. Parents or guardians of children with birth defects.

(3) The information provided under this subsection shall be distributed to each hospital and made available to parents or guardians of children with birth defects by the child's physician before the child is discharged from the hospital and with an explanation, to the extent possible, of the birth defect to the parents or guardians.

(4) (i) The Secretary shall send a letter to the parent or guardian of each child reported under this section with a birth defect before the child is 6 months old.

(ii) The letter shall offer information about the birth defect and available services with emphasis on needs identified after discharge from the hospital.

(iii) Before sending a letter to a parent or guardian, the Secretary shall implement appropriate procedures to assure that a letter is not sent to a parent or guardian of a child who has died.

(h) The Department and the Department of the Environment shall jointly develop procedures to monitor the data on birth defect trends which may be caused by environmental hazards.

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